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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,998	04/07/2006	Russell Vaughan Meddes	06-241	3518
20306	7590	03/31/2009	EXAMINER	
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP			RO, YONG-SUK	
300 S. WACKER DRIVE			ART UNIT	PAPER NUMBER
32ND FLOOR			3676	
CHICAGO, IL 60606				

  

MAIL DATE	DELIVERY MODE
03/31/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/574,998	MEDDES ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Yong-Suk Ro	3676	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 January 2009.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-15 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 07 April 2006 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____ .                        |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 4-5, 7-8, and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Brieger (4756371).

Brieger discloses a similar device, comprising:

Re claim 1:

- A carrier T/60 for at least one shaped charge S<sub>H</sub>, S<sub>A</sub> (Col. 6:40, 46-48, Fig. 5).
- The carrier being disposable in use within a well bore 11.
- The carrier comprising a housing 60 at least partially formed from a composite material, the composite material being non-frangible in normal use (Col. 6:43, Figs. 5, 6). It is noted that the steel is composite material consisting of iron with carbon, and non-frangible. Fig. 6 depicts the housing 60 remains intact after firing of shaped charge.
- The composite material being arranged substantially to contain debris 72 created within the carrier T as a result of firing of the at least one shaped charge (Fig. 6, Col. 6:42-45, 58-62).

Re claim 4:

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- The housing 60 is a composite material housing (Col. 6:43). It is noted that the steel is composite material consisting of iron with carbon.

Re claim 5:

- The housing comprises a thin-walled cylinder 62 (Fig. 5).

Re claim 7:

- the carrier T/60 has at least one port 68<sub>A</sub>, 68<sub>H</sub> formed therein (Fig. 5)

Re claim 8:

- A plurality of ports are distributed along the longitudinal extent of the carrier. (Fig. 5).

Re claim 13:

- A perforating gun T comprising a carrier 60 (Fig. 5).

Brieger discloses a similar method, comprising:

Re claim 14:

- Providing a perforating gun T (Fig. 5).
- Positioning the perforating gun T in the well borehole 11 (Fig. 5).
- Perforating the borehole by firing the perforating gun (Fig. 6).
- Retrieving debris 72 resulting from the step of perforating by recovering the carrier 60 of the perforating gun T (Fig. 6), the carrier T/60 containing debris resulting from the firing (Col. 6:42-45, 58-62).

Re claim 15:

- The fluid is one or more of hydrocarbons, water, and steam (Col. 3:64-65).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brieger (4756371) in view of Xu et al. (6422148).

Re claim 2: Brieger discloses the housing 60 comprises an inner housing 62.

However, Brieger fails to disclose an inner housing which is at least partially encompassed by an outer composite material overwrap.

Xu et al. disclose the inner housing 23 which is at least partially encompassed by an outer composite material overwrap 24.

Thus, it would have been considered obvious to one of ordinary skill in the art, at the time the invention was made to employ the teachings of Xu et al. in the device of Brieger in order to achieve optimum performance of the perforating gun.

Re claim 3: Brieger and Xu et al. fail to disclose the inner housing is substantially of metal.

However, Brieger disclose the inner housing 62 remains intact after firing of shaped charge (Fig. 6). It implies that the inner hosing is the rigid material.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the rigid material such as metal for the inner housing of carrier in order to achieve optimum performance of the perforating gun, since

it has been held to be within the general skill of a worker in the art to select to known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

5. Claims 6, 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brieger (4756371) in view of Yang et al. (6520258).

Re claim 6: Brieger discloses a thin-walled cylinder housing 60.

Brieger fails to disclose the housing comprises a thin-walled metal cylinder.

Yang et al. disclose the metal tube 706 (Col. 10:64-65).

Hence, it would have been considered obvious to one of ordinary skill in the art, at the time the invention was made to employ the teachings of Yang et al. in the housing of Brieger's device in order to achieve optimum performance of the perforating gun.

Re claim 9: Brieger fails to disclose the composite material is a loaded polymer matrix.

Yang et al. disclose the composite material is a loaded polymer matrix (Col. 7: 34-35, 38-39). It is noted that the phrase "shock impeding material" is non-frangible.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ teaching of Yang et al. in the device of Brieger in order to achieve optimum performance of the perforating gun.

Re claims 10-11: Brieger and Yang et al. fails disclose composite material including longitudinally arranged fibers in claim 10, and composite material including circumferentially arranged fibers in claim 11.

However, it is noted that the mechanical property, such as tension and compression, of composite material depends on the arrangement of fiber. The case law has held that “a particular parameter must first be recognized as a result-effective variable, i.e., a variable which achieves a recognized result, before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation”. In *re Antonie*, 559 F2d, 618, 195USPQ 6 (CCPA 1977).

Thus, the examiner takes OFFICIAL NOTICE that it would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the fiber arrangement longitudinally or circumferentially by routine optimization of fiber, in order to achieve optimum mechanical properties of the composite material.

Re claim 12: Brieger and Yang et al. fails disclose circumferentially arranged fibers have respective predetermined tensions.

However, it is noted that the mechanical property, such as tension and compression, of composite material depends on the arrangement of fiber. The case law has held that “a particular parameter must first be recognized as a result-effective variable, i.e., a variable which achieves a recognized result, before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation”. In *re Antonie*, 559 F2d, 618, 195USPQ 6 (CCPA 1977).

Thus, the examiner takes OFFICIAL NOTICE that it would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the fiber arrangement circumferentially by routine optimization of fiber, in order to have ideal predetermined tension of the composite material.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong-Suk Ro whose telephone number is 571-270-5466. The examiner can normally be reached on M-F, 9hrs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jennifer Gay can be reached on 571-272-7029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jennifer H Gay/  
Supervisory Patent Examiner, Art Unit 3676

Yong-Suk Ro  
Examiner  
Art Unit 3676